



6712-01

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to the Federal Communications Commission via email to PRA@fcc.gov and Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0967.

Title: Section 79.2, Accessibility of Programming Providing Emergency Information, and Emergency Information; Section 79.105, Video Description and Emergency Information Accessibility Requirements for All Apparatus; Section 79.106, Video Description and Emergency Information Accessibility Requirements for Recording Devices.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; individuals or households; not-for-profit institutions; and State, local, or tribal Governments.

Number of Respondents and Responses: 640 respondents; 642 responses.

Estimated Time per Response: 0.5 to 5 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Voluntary. The statutory authority for this information collection is contained in the Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, 124 Stat. 2751, and sections 4(i), 4(j), 303, 330(b), 713, and 716 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 303, 330(b), 613, and 617.

Total Annual Burden: 735 hours.

Total Annual Cost: \$24,150.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's updated system of records notice (SORN), FCC/CGB-1, "Informal Complaints and Inquiries," which became effective on January 25, 2010. The Commission believes that it provides sufficient safeguards to protect the privacy of individuals who file complaints under 47 CFR 79.2(c).

Privacy Impact Assessment: The Privacy Impact Assessment (PIA) for Informal Complaints and Inquiries was completed on June 28, 2007. It may be reviewed at <http://www.fcc.gov/omd/privacyact/Privacy-Impact-Assessment.html>. The Commission is in the process of updating the PIA to incorporate various revisions to it as a result of revisions to the SORN.

Needs and Uses: On April 9, 2013, the Commission released a Report and Order and Further Notice of Proposed Rulemaking, MB Docket Nos. 12-107, 11-43, FCC 13-45 (the Report and Order) adopting rules implementing portions of the Twenty-First Century Communications and Video Accessibility Act of 2010 (the CVAA) related to accessible emergency information, and apparatus requirements for emergency information and video description. These rules are codified at 47 CFR 79.2, 79.105, and 79.106. Pursuant to Section 202 of the CVAA, the Report and Order requires that video programming distributors and video programming providers (including program owners) make emergency information accessible to individuals who are blind or visually impaired by using a secondary audio stream to convey televised emergency information aurally, when such information is conveyed visually during programming other than newscasts. Pursuant to Section 203 of the CVAA, the Report and Order requires certain apparatus that receive, play back, or record video programming to make available video description services and accessible emergency information.

The following rule sections and other requirements contain new and revised information collection requirements for which the Commission is seeking approval from the Office of Management and Budget (OMB):

(a) Complaints alleging violations of the emergency information rules.

Section 79.2(c) of the Commission's rules provides that a complaint alleging a violation of this section may be transmitted to the Consumer and Governmental Affairs Bureau by any reasonable means, such as the Commission's online informal complaint filing system, letter, facsimile transmission, telephone (voice/TRS/TTY), Internet email, audio-cassette recording, and Braille, or some other method that would best accommodate the complainant's disability, and that each

complaint should include: the name of the video programming distributor (VPD) or video programming provider (VPP) against whom the complaint is alleged; the date and time of the omission of the emergency information; and the type of emergency. After the Commission receives the complaint, the Commission notifies the VPD or VPP of the complaint, and the VPD or VPP has 30 days to reply.

(b) Complaints alleging violations of the apparatus emergency information and video description requirements.

The Report and Order adopts procedures for consumers to file complaints alleging violations of the rules containing apparatus emergency information and video description requirements, 47 CFR 79.105-79.106. A complaint filed with the Commission may be transmitted to the Consumer and Governmental Affairs Bureau by any reasonable means, such as the Commission's online informal complaint filing system, letter in writing or Braille, facsimile transmission, telephone (voice/TRS/TTY), e-mail, or some other method that would best accommodate the complainant's disability. Given that the population intended to benefit from the rules adopted will be blind or visually impaired, if a complainant calls the Commission for assistance in preparing a complaint, Commission staff will document the complaint in writing for the consumer. Such complaints should include certain information about the complainant and the alleged violation, including:

- the name, postal address, and other contact information, such as telephone number or email address, of the complainant;
- the name and contact information, such as postal address, of the apparatus manufacturer or provider;

- information sufficient to identify the software or device used to view or to attempt to view video programming with video description or emergency information;
- the date or dates on which the complainant purchased, acquired, or used, or tried to purchase, acquire, or use the apparatus to view video programming with video description or emergency information;
- a statement of facts sufficient to show that the manufacturer or provider has violated or is violating the Commission's rules;
- the specific relief or satisfaction sought by the complainant; and
- the complainant's preferred format or method of response to the complaint.

The Commission will forward such complaints, as appropriate, to the named manufacturer or provider for its response, as well as to any other entity that Commission staff determines may be involved, and may request additional information from any relevant parties when, in the estimation of Commission staff, such information is needed to investigate the complaint or adjudicate potential violations of Commission rules.

(c) Requests for Commission determination of technical feasibility of emergency information and video description apparatus requirements.

The requirements of Section 203 of the CVAA pertaining to apparatus designed to receive or play back video programming apply only to the extent they are "technically feasible." Pursuant to 47 CFR. 79.105(a), all apparatus that (i) is designed to receive or play back video programming transmitted simultaneously with sound that is provided by entities subject to 47 CFR 79.2 and 79.3,

(ii) is manufactured in the United States or imported for use in the United States, and (iii) uses a picture screen of any size, must have the capability to decode and make available the secondary audio stream if technically feasible. Parties may raise technical infeasibility as a defense when faced with a complaint alleging a violation of the apparatus requirements adopted in the Report and Order or, alternatively, may file a request for a ruling under § 1.41 of the Commission's rules as to technical infeasibility before manufacturing or importing the product.

(d) Requests for Commission determination of achievability of emergency information and video description apparatus requirements.

Section 203 provides that apparatus "that use a picture screen that is less than 13 inches in size" must meet the requirements of that section only if "achievable," as that word is defined in Section 716 of the Communications Act, and also provides that "apparatus designed to record video programming transmitted simultaneously with sound" are only required to comply with the emergency information and video description requirements "if achievable (as defined in section 716)." Pursuant to 47 CFR 79.105(b)(3), apparatus that use a picture screen of less than 13 inches in size must comply with the provisions of this section only if doing so is achievable as defined in this section. Further, pursuant to 47 CFR 79.106(a), all apparatus that (i) is designed to record video programming transmitted simultaneously with sound that is provided by entities subject to 47 CFR 79.2 and 79.3, and (ii) is manufactured in the United States or imported for use in the United States, must comply with the provisions of this section except that apparatus must only do so if it is achievable as defined in § 79.105(b)(3).

Manufacturers of apparatus that use a picture screen of less than 13 inches in size and of recording devices may petition the Commission, pursuant to 47 CFR 1.41, for a full or partial exemption from

the video description and emergency information requirements before manufacturing or importing the apparatus. Alternatively, manufacturers may assert that a particular apparatus is fully or partially exempt as a response to a complaint, which the Commission may dismiss upon a finding that the requirements of this section are not achievable. Pursuant to 47 CFR 79.105(b)(3), such a petition for exemption or a response to a complaint must be supported with sufficient evidence to demonstrate that compliance with the requirements of this section is not achievable (meaning with reasonable effort or expense), and the Commission will consider four specific factors when making such a determination. In evaluating evidence offered to prove that compliance is not achievable, the Commission will be informed by the analysis in the ACS Order.

(e) Petitions for purpose-based waivers of emergency information and video description apparatus requirements.

Section 203 of the CVAA permits the Commission to waive emergency information and video description apparatus requirements for any apparatus or class of apparatus that is:

- (a) primarily designed for activities other than receiving or playing back video programming transmitted simultaneously with sound, or
- (b) designed for multiple purposes, capable of receiving or playing video programming transmitted simultaneously with sound but whose essential utility is derived from other purposes.

Manufacturers of apparatus may petition the Commission for a full or partial purpose-based waiver of the apparatus requirements adopted in the Report and Order pursuant to 47 CFR 79.105(b)(4).

The Commission will address any requests for purpose-based waiver on a case-by-case basis, and

waivers will be available prospectively for manufacturers seeking certainty prior to the sale of a device.

(f) Submission and review of consumer eligibility information pertaining to DIRECTV, LLC's waiver for provision of aural emergency information during The Weather Channel's programming.

In the Report and Order, the Commission grants DIRECTV, LLC (DIRECTV) a waiver with respect to the set-top box models on which it is not able to implement audio functionality for emergency information, but conditions such relief by requiring DIRECTV to provide, upon request and at no additional cost to customers who are blind or visually impaired, a set-top box model that is capable of providing aural emergency information. DIRECTV may require reasonable documentation of disability as a condition to providing the box at no additional cost. Thus, DIRECTV customers who are blind or visually impaired may be required to submit reasonable documentation of disability to DIRECTV (e.g., documentation from any professional or service provider, such as a social worker, with direct knowledge of the individual's disability).

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

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